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REMARKS

This Response and Amendment were made in response to the Office Action dated January 11, 2006.

In the Office Action, claims 1-24, 26-31 and 60-63 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically noted in the rejection were claims 1 and 27. These claims have been amended to overcome the 35 U.S.C. § 112, second paragraph rejections. Therefore, withdrawal of the 35 U.S.C. § 112 rejection of claims 1-24, 26-31 and 60-63 is respectfully requested.

Claims 1-24, 26-37 and 40-63 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Azonic Acoustical Analysis Service as disclosed in Azonic's *"Acoustical Analysis Services Determines Optimum Noise and Reverberation Reduction Before Purchase"* (hereinafter Azonic) in view of *"Sound Control for Commercial and Residential Buildings"* (hereinafter Sound Control).

The Examiner is thanked for the courtesies extended in the May 4, 2006 interview. During the interview, Independent claims 1 and 32 with regard to the applied prior art were discussed. Applicants noted that the Azonic reference does not disclose or suggest all of the features recited in independent claims 1 and 32. In addition, the Sound Control reference does not overcome the deficiencies of the Azonic reference.

In making the rejection, the Office Action states that Azonic does not expressly teach the step of modifying the input of project information to incorporate the selected enhancement solutions, wherein the modified inputted information

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describes a project operating at the desired performance level, and the modified project information is presented to a user as recited in independent claim 1 and dependent claims 26 and 27.

The Office Action relies upon the Sound Control reference to provide the suggestion that the inputted project information would be modified based on the picture on the title page and page 2 of the reference. However, the Sound Control reference merely shows the products available and the potential installation of the disclosed products. The Sound Control reference does not disclose or suggest that inputted project information should be modified based on any of the products disclosed in the brochure.

The Azonic reference, as admitted by the Examiner, does not take the additional step of modifying the inputted project information but provides recommendations based on the computer analysis. The Sound Control reference shows physically installing Sound Control materials, not the computer modification of inputted project information. Therefore, the modifications as described by the Examiner in the rejection of claim 1 cannot be transferred or transformed into the modified project information as recited in independent claim 1.

The Examiner during the interview conducted on May 4, 2006, stated that the implementation of the Azonic recommendations was a modification of the inputted project information. However, applicants assert that such an implementation is a modification of the building structure and not of the project information that was input in the inputting step of independent claim 1.

Applicants respectfully submit that claims 1-31, 60 and 61 are in condition for allowance because the Azonic reference and the Sound Control reference, either

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individually, or in combination, do not disclose or suggest all of the features recited in independent claim 1.

In making the rejection of independent claim 32 and dependent claims 40 and 58, the Office Action asserts that the Azonic reference uses a computerized modeling system to conduct its acoustical testing and collect corresponding results. However, the Office Action admits that the Azonic reference does not disclose the use of a central computer *per se* for receiving project information through a network from a user computer and returning modified project information to the user at his/her computer. The Office Action asserts that it is old and well known to utilize a central computer for gathering test information and distributing analysis results, and therefore asserts that the claimed limitations are obvious based on Official Notice. However, the Azonic reference discloses that the kit supplied to the customer for collection of data includes a starter gun and tape recorder. It is unclear how the customer would provide the tape recorded sound data to a central computer for analysis by the Azonic system.

The Azonic reference states that the sound data is analyzed by advanced and highly sophisticated instrumentation and is combined with the information on the questionnaire. The Azonic reference does not disclose how the information on the questionnaire is combined with the sound data. The information from the questionnaire could merely be reviewed by a person with respect to the sound data and recommendations provided therefrom.

Claim 32 recites, among other features, a reviewer for determining a combination of enhancement solutions based on the received project information, wherein the reviewer is a reviewing computer. This feature is not addressed in the

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instant rejection and therefore it is respectfully submitted that the combination of the Azonic reference with the Sound Control reference does not disclose or suggest all of the features recited in independent claim 32.

Furthermore, neither the Azonic reference or Sound Control reference, individually, or in combination, disclose or suggest determining a combination of enhancement solutions based on the received project information as recited in independent claim 32. The Sound Control reference shows combinations of materials, but it does not disclose combinations of materials to meet project information. Azonics does not mention combinations of recommendations.

Accordingly, claims 32-37 and 40-59 are respectfully submitted to be in condition for allowance and notification to that effect is respectfully requested.

In the rejection of dependent claims 24, 28, 29-32, 40, 56, 58, 59 and 61, the Examiner has taken Official Notice to the features recited in each of those claims. It is respectfully submitted that even if the features recited in the dependent claims are old and well known, the old and well known features in combination with the independent claims and associated dependent claims do not render the claimed invention obvious with respect to the Officially Noticed features. The Official Notice does not provide the requisite suggestion or reasoning to arrive at the claimed invention.

In addition, there must be some form of evidence in the record to support an assertion of common knowledge. See *Zurko*, 257 F.3d at 1386, 59 U.S.P.Q. 2d at 1697.

It is respectfully submitted that claims 1-24, 26-37, and 40-63 are in condition for allowance because a *prima facie* case of obviousness has not been made

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because the references do not expressly or impliedly suggest the claimed invention and the Examiner has not presented a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Should any questions arise in connection with this application, or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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